

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: DEPUY ORTHOPAEDICS, INC., PINNACLE
HIP IMPLANT PRODUCTS LIABILITY LITIGATION**

MDL No. 2244

ORDER VACATING CONDITIONAL TRANSFER ORDERS

Before the Panel: Plaintiffs in three District of New Jersey actions listed on the attached Schedule A move under Panel Rule 7.1 to vacate the Panel's order conditionally transferring the actions to MDL No. 2244. Defendants¹ oppose the motions.

After considering the parties' arguments, we find that transfer of these actions is not necessary. In our order directing centralization, we held that the Northern District of Texas was an appropriate Section 1407 forum for actions sharing factual questions arising from alleged injuries from DePuy's Pinnacle Acetabular Cup System hip implants. *See In re: DePuy Orthopaedics, Inc., Pinnacle Hip Implant Prods. Liab. Litig.*, 787 F. Supp. 2d 1358 (J.P.M.L. 2011). These three actions involve injuries related to DePuy Pinnacle Acetabular Cup System hip implants and fall within the MDL's ambit.

While we typically transfer similar cases to MDL No. 2244, multidistrict litigation "is not static." *In re Bridgestone/Firestone, Inc., Tires Prods. Liab. Litig.*, 659 F. Supp. 2d 1371, 1372 (J.P.M.L. 2009). At a certain point, the "benefits of transfer should not be assumed to continue." *Id.* The relative merits of transferring new tag-along actions to an MDL change over time as the transferee court completes its primary tasks. Here, eleven years have passed since we centralized this litigation. Common discovery has been completed, several bellwether trials have been conducted, and a global settlement has been reached. After consultation with the transferee judge, we are of the view that MDL No. 2244 has reached the point where the benefits of transfer are outweighed by the effects of transferring new cases to this mature litigation. Based on our review of the progress of this docket, we conclude that adding these three actions (or any future actions) to MDL No. 2244 is no longer needed to achieve the just and efficient conduct of this litigation. *See* 28 U.S.C. § 1407(a).

We see no reason why the parties in newly-filed or removed actions, subject to the same conditions imposed on the parties to MDL No. 2244, should not be able to avail themselves of the documents and depositions accumulated in this MDL. The involved courts may find useful

¹ Medical Device Business Services, Inc. (f/k/a DePuy Orthopaedics, Inc.); and DePuy Synthes Sales, Inc.

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guidance in the pretrial rulings of Judge James E. Kinkeade in this docket. The parties also can employ alternatives to transfer to minimize whatever, if any, possibilities may arise of duplicative discovery or inconsistent pretrial rulings. *See, e.g., In re Eli Lilly & Co. (Cephalexin Monohydrate) Patent Litigation*, 446 F. Supp. 242, 244 (J.P.M.L. 1978); *see also Manual for Complex Litigation, Fourth*, § 20.14 (2004). Thus, even without transfer, most of the benefits of centralization should be available to the parties to expedite the resolution of any remaining Pinnacle hip implant cases.

IT IS THEREFORE ORDERED that plaintiffs' motions to vacate the conditional transfer orders designated as "CTO-366" and "CTO-367" are GRANTED;

IT IS FURTHER ORDERED that Panel Rule 7.1(a), requiring notification to the Clerk of the Panel of potential tag-along actions, is hereby suspended in this litigation until further notice.

PANEL ON MULTIDISTRICT LITIGATION



Karen K. Caldwell
Chair

Nathaniel M. Gorton
David C. Norton
Dale A. Kimball

Matthew F. Kennelly
Roger T. Benitez
Madeline Cox Arleo

**IN RE: DEPUY ORTHOPAEDICS, INC., PINNACLE
HIP IMPLANT PRODUCTS LIABILITY LITIGATION**

MDL No. 2244

SCHEDULE A

Central District of California

FRIED v. THOMAS P. SCHMALZRIED, ET AL., C.A. No. 2:22-00434

Northern District of California

BRADLEY v. SCHMALZREID, M.D., ET AL., C.A. No. 4:22-00414

District of New Jersey

GOODINSON v. JOHNSON & JOHNSON, ET AL., C.A. No. 3:22-01320